

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Keam	Team: Team # 8	CCRB Case #: 200508085	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/16/2005 4:29 PM	Location of Incident: foot of Williamsburg Bridge in Manhattan	Precinct: 07	18 Mo. SOL 1/16/2007	EO SOL 1/16/2007	
Date/Time CV Reported Sat, 07/16/2005 11:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 07/16/2005 11:27 PM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. POM Benjamin Cui	26367	932505			
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Steven Hong	30781	932800			
Officer(s)	Allegation		Investigator Recommendation		
A.POM Benjamin Cui	Abuse: PO Benjamin Cui refused to provide his shield number to § 87(2)(b)				

Synopsis

On July 16, 2005 at approximately 4:29pm, § 87(2)(b) was riding her bike at the foot of the Williamsburg Bridge in Manhattan. At the foot of the bridge there is a traffic island and a crosswalk nearby. § 87(2)(b) noticed an RMP parked on the traffic island. She stated it was blocking the crosswalk. As § 87(2)(b) was directing her bicycle through the crosswalk near the traffic island, the RMP began to back up. § 87(2)(b) stated that the RMP nearly hit her, but that she was able to swerve and avoid it. When the RMP stopped, § 87(2)(b) went to the passenger-side window and asked the officers why they had not looked before backing up their vehicle. The officer in the driver's seat (PO1) told § 87(2)(b) he did not know what she was talking about. § 87(2)(b) then asked the officer for his badge number and she stated that he quickly blurted something out that she was unable to understand (Allegation A). § 87(2)(b) then took down the RMP number and told PO1 she was going to report him. § 87(2)(g)

§ 87(2)(b) The allegation in this case is eligible for mediation. As such, mediation was offered to the complainant but she rejected it, § 87(2)(b)

Summary of Complaint

§ 87(2)(b) is a white female with blue eyes and brown hair. She is 5' 3" tall and weighs 140lbs. § 87(2)(b) did not remember what she was wearing on the date of incident, but said that she had a black fanny-pack with her. § 87(2)(b) gave two separate statements regarding her case. She provided a phone statement on July 25, 2005 (Enc. 7) and then came into the CCRB and gave a formal statement on August 3, 2005 (Enc. 8a-d). § 87(2)(g) She stated that the incident happened as follows:

On July 16, 2005 at approximately 4:29pm § 87(2)(b) states she was on her bicycle, crossing the street from the south side of Delancey Street to the traffic island at the base of the pedestrian path leading up to the Williamsburg Bridge. There were two police vehicles parked in this vicinity: a patrol car and a van. The patrol car was parked on the traffic island in the crosswalk that passes through the traffic island. The van was parked near the traffic island, but outside of the crosswalk. § 87(2)(b) said that it was necessary for her to pass through the crosswalk near the traffic island to get onto the bridge. As she was approaching the crosswalk near the traffic island, the patrol car backed up and almost hit her. § 87(2)(b) swerved and screamed. The patrol car stopped. § 87(2)(b) proceeded to approach the passenger side of the patrol car and asked the officers why they had not looked before backing up the vehicle. There were two officers in the car. The officer in the passenger seat (PO2) did not exchange any words with § 87(2)(b). When she asked why the officers had not looked before backing up, the officer in the driver's seat (PO1) said, "I didn't touch you". § 87(2)(b) then asked the officer in the driver's seat for his badge number and she stated that he blurted it out quickly. During the interview, § 87(2)(b) drew a map of the scene to better illustrate the incident (Enc. 8c).

§ 87(2)(b) described the two officers as male Asians, both with short hair and both in uniform. PO1, the officer in the driver's seat, had a wider face and was in his mid to late twenties. PO2, the officer in the passenger seat, was also in his mid to late twenties and had a slight build. Both officers were in good shape.

Results of Investigation

Officer Statements

PO Cui

PO Benjamin Cui made two statements regarding this incident. The first statement was in his memo book (Enc. 9a-b) and was written on July 16, 2005. In his entry, he wrote, "16:30 Passing Clinton and Delancey observing traffic on traffic divider. 16:53 Bicyclist with no safety device on came around states RMP almost hit her and states RMP did not touch her".

PO Cui gave his second statement at the CCRB on October 13, 2005 (Enc. 10a-b). In his interview, he stated that on July 16, 2005 he and PO Hong worked a 15:00 x 23:35 tour and were assigned to marked RMP 2273. PO Cui was the operator of the RMP. The officers were parked on a traffic island and were monitoring traffic near the intersection of Clinton and Delancey Streets. After about five or ten minutes of sitting at their post, a woman approached the passenger side of their RMP. The woman stated that the RMP had almost hit her on her bicycle. PO Cui stated that the RMP did not touch her. The woman then asked PO Cui for his badge number. PO Cui stated that he provided it for her in a normal tone of voice and that she appeared to write it down. After that, the woman left. PO Cui also said that he did not back up the RMP before the woman approached it. He said that the RMP remained stationary the entire time he and PO Hong were at their post. PO Cui was asked if there was any background noise that may have prevented the woman from hearing his badge number. He stated that there was some noise from the traffic.

PO Hong

PO Steven Hong provided two statements for this incident. His first statement was written in his memo book (Enc. 11a-b) on the date of incident, July 16, 2005. In his memo book, PO Hong wrote "16:30 Female stated PO Cui almost struck her with RMP".

On October 13, 2005, PO Hong gave his second statement (Enc. 12a-b). In his CCRB interview, he stated that on the date of incident he and PO Cui were assigned to monitor vehicles violating the red lights near the foot of the Williamsburg Bridge. The officers worked a 15:00 x 23:35 tour and were assigned to marked RMP 2273. After about ten or fifteen minutes, a woman approached the passenger side of the RMP and stated that the RMP had almost hit her on her bicycle. PO Hong stated that the RMP was stationary throughout their post and that it had not backed up before the woman approached the RMP. The woman asked PO Cui for his badge number. PO Cui provided it twice and in a normal tone of voice. PO Hong stated that the woman appeared to write the badge number down as PO Cui provided it. Investigator Bufter asked PO Hong whether PO Cui had provided the woman with his badge number in a manner that could be clearly understood. PO Hong responded by saying the PO Cui has an accent, but that he felt PO Cui had clearly provided his badge number. When PO Hong was asked why he had recorded the incident in his memo book, PO Hong stated that he did so because the woman had asked for PO Cui's badge number. PO Hong said that generally, when a civilian asks an officer for his badge number it indicates that the civilian is going to file a complaint.

Police Documents

In support of the investigation, the investigator requested and obtained several documents, including Fleet Services (Enc. 13), Roll Call for Tour 3 on the date of incident (Enc. 14a-e), and memo books for PO Hong and PO Cui.

Fleet Services

§ 87(2)(b) stated in her interview that the number of the RMP the officers were driving was 2273. The investigator then made a Fleet Services request. According to the database listing, RMP 2273 was assigned to the 7th Precinct.

Roll Call

The roll call for Tour 3 on the date of incident confirmed that Officers Hong and Cui were present for duty and were assigned to RMP 2273.

CCRB Officer History

PO Cui

PO Cui does not have any substantiated allegations in his CCRB history.

PO Hong

PO Hong does not have any substantiated allegations in his CCRB history.

Conviction History of Complainant

As of July 25, 2005, the NYPD discontinued the CCRB's direct access to the BADS database. Although the NYPD is fulfilling the CCRB's request for BADS records, it has refused to provide the CCRB with the arrest histories of CCRB witnesses.

Conclusions and Recommendations

Officer Identification

On the date of incident, § 87(2)(b) wrote down the number of the RMP she alleged almost hit her. § 87(2)(b) also identified PO1 and PO2 as two Asian males. Using the number of the RMP, the investigator made a fleet services request (Enc. 13) and discovered that the RMP in question, 2273, was assigned to the 7th Precinct. After receiving the roll call from the 7th precinct (Enc. 14a-e), the investigator discovered that PO Cui and PO Hong were assigned to RMP 2273 on the date of incident. CTS confirmed that PO Cui and PO Hong are Asian males. When PO Cui and PO Hong came into the CCRB to give their statements, they confirmed their presence at the location. PO Cui stated that he was the operator of the RMP, which identified him as PO1. PO Hong stated that he was the passenger, which identified him as PO2.

Undisputed Facts

§ 87(2)(b) PO Cui, and PO Hong all stated that they were at the foot of the Williamsburg Bridge on the date on incident. All three also stated that § 87(2)(b) only spoke to PO Cui and not to PO Hong. They also agreed that § 87(2)(b) requested PO Cui's badge number and that PO Cui gave her some type of verbal response.

Disputed Facts

Both PO Cui and PO Hong stated that their RMP was stationary during the entire time they were at their post. They both also stated that when § 87(2)(b) requested PO Cui's badge number, PO Cui provided it. PO Hong and PO Cui said that PO Cui spoke in a clear and normal tone of voice when he gave his identification.

§ 87(2)(b) alleges that PO Cui backed up the RMP and almost struck her with it. § 87(2)(b) also stated that when she asked PO Cui for his identification he blurted something out that she was not able to understand.

Credibility

§ 87(2)(b)

§ 87(2)(g)

Officers

§ 87(2)(g)

Determination of Fact

All three parties in the complaint agree that PO Cui provided a verbal response to § 87(2)(b)'s request for identification. The Patrol Guide Procedure 203-09 (Enc. 1) states that officers must, "courteously and clearly state [his or her] rank, name, shield number and command, or otherwise provide them, to anyone who requests [him or her] to do so and allow the person ample time to note this

information”. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b) [REDACTED] alleged that PO Cui blurted out his response. She specifically stated that she was unable to understand his response. § 87(2)(b) [REDACTED] admitted that she did not ask PO Cui to repeat himself when she was unable to understand him. She also stated that she wrote down the number of the RMP before she left the scene. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation A: PO Benjamin Cui refused to provide his shield number to § 87(2)(b) [REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED] § 87(2)(b) [REDACTED] stated that she asked PO Cui for his badge number and that he blurted something out that she was not able to understand. When § 87(2)(b) [REDACTED] was asked whether she had asked PO Cui to repeat himself when he gave what she perceived to be an unclear response and she said “no”. Both PO Cui and PO Hong confirmed that when § 87(2)(b) [REDACTED] asked PO Cui to identify himself, he did so. PO Cui and PO Hong also stated that PO Cui provided § 87(2)(b) [REDACTED] with his badge number in a clear and normal tone. § 87(2)(g) [REDACTED]
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: